discriminatory to mean the offering of the same terms and conditions for the same service to all similarly situated customers.[11] The DCPSC suggests that the FCC continue to use this definition. The DCPSC further suggests that "just and reasonable" terms and conditions be defined as terms and conditions that are consistent with the purposes of the 1996 Act.

(3) Interconnection That Is Equal in Quality

The NPRM seeks comment on criteria for defining the duty to provide interconnection that is at least equal in quality to that provided by the incumbent LEC to itself, or to any subsidiary, affiliate or other party. In concept, section 251(c)(2)(C) appears to contemplate the functional equivalent of the Feature Group access service that was developed to provide to competing interexchange carriers an access service that is equal in quality to what only AT&T had previously received. We suggest that the Commission's definition incorporate this concept to the extent feasible.

(4) Interconnection and Other Obligations

The NPRM suggests that section 251(c)(2) confers broad authority on the FCC to prescribe any form of interconnection, including virtual collocation. Section 251(c)(6) clearly states,

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[11] See, e.g., Petitions for Rulemaking Concerning Proposed Changes to the Commission's Cellular Resale Policies, CC Dkt. 91-33, Notice of Proposed Rulemaking and Order, 6 FCC Rcd 1719, 1724 (1991), affirmed sub.nom., Cellnet Communications, Inc. v. F.C.C., 965 F.2d 1106 (D.C. Cir. 1992).

however, that the FCC may not require physical collocation if a LEC demonstrates to its state commission that physical collocation is impractical "for technical reasons or because of space limitations." In the latter case the LEC's duty is to provide only virtual collocation. The only other form of interconnection mentioned in the NPRM is meet point interconnection.

The Commission's rules should define physical collocation and virtual collocation separately. It may be reasonable to define physical collocation to include meet point interconnection as a form of physical collocation. The Commission's definition of virtual collocation will determine what the LEC has a duty to provide if it is exempted from the provision of physical collocation by state action.

b. Collocation

Section 251(c)(6) requires that state commissions will decide "whether physical collocation is not practical for technical reasons or because of space limitations." Available space and equipment in central offices can vary greatly even among the same LEC's central offices. Thus, state commissions will have to decide such requests on a case-by-case basis. Nonetheless, FCC guidelines patterned after those contained in

the FCC's Expanded Interconnection orders[12] could be used by states as a basis for developing suitable approaches to such decisions.

c. Unbundled Network Elements

The DCPSC agrees with the NPRM's tentative conclusion (¶ 72) that section 251 contemplates that the Commission will identify and define network elements that incumbent LECs should unbundle to fulfill their duties under Section 251(c)(3). In doing so, the FCC must consider at a minimum the issues specified in section 251(d)(2). The DCPSC also agrees with the further tentative conclusion that the Commission should identify only "a minimum set of network elements that incumbent LECs must unbundle...." Id. Finally, the DCPSC agrees with the NPRM's tentative conclusion that states may require additional unbundling of LEC networks. ¶ 78. Our comments on the scope of the Commission's regulations, supra, are responsive to the issues raised in paragraphs 79-82 of the NPRM.

(1) Network Elements

The Commission should adopt a flexible definition of "network element" that protects state discretion. Accordingly, the DCPSC supports the NPRM's proposal to adopt a broad

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[12] Expanded Interconnection with Local Telephone Company Facilities, Report and Order and NPRM, 7 FCC Rcd 7369 (1992), Designation Order, 8 FCC Rcd 6909, Opinion and Order, 9 FCC Rcd 5154 (1994), Designation Order, 10 FCC Rcd 11116 (1995).

definition that permits, but does not require, states to treat a local loop as several network elements. ¶ 83.

(2) Access to Network Elements

The DCPSC tentatively agrees with the NPRM's interpretation and definition of the terms "access" and "on an unbundled basis" in section 251(c)(3). ¶ 86. With respect to the section 251(c)(3) mandate that LECs provide access "at any technically feasible point," the DCPSC agrees with the NPRM's tentative conclusion that, as a general rule, "the unbundling of a particular network element by one LEC (for any carrier) evidences the technical feasibility of providing the same or a similar element on an unbundled basis in another similarly structured LEC network." ¶ 87. A state commission, however, would apply such rule in an arbitration and would be required to determine on the facts presented whether the requested element is the same as or similar to the element that has been provided and whether the LEC network is "similarly structured."

The DCPSC suggests that only the FCC's existing general definition of "nondiscriminatory," as provided supra, be adopted. The specific criteria suggested by the NPRM may be useful guidelines for state inquiries into specific fact situations, but the record does not show that they would be suitable rules in all or even most states.

(3) Specific Unbundling Proposals

On the basis of the facts stated in the NPRM, the DCPSC suggests that the Commission's regulations should identify only loops, switches, transport facilities, and signaling and databases as network elements that must be unbundled. Such a minimum list is consistent with the requirements and legislative history of the 1996 Act cited in the NPRM. The facts cited in the NPRM do not show that additional unbundling would be reasonable on a nationwide basis. To the extent that additional unbundling has been required in particular states, such requirements should survive in those states, consistent with section 251(d)(3), and serve as guidelines to the other states in carrying out their responsibilities under the 1996 Act.

d. Pricing of Interconnection, Collocation, and Unbundled Network Elements

The NPRM observes that incumbent LEC duties under section 251 include the specification of rates for interconnection, unbundled elements and collocation. Section 251(c)(2) and (3) require that rates for interconnection and unbundled elements be "just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252." Section 251(c)(6) simply requires rates "that are just, reasonable and nondiscriminatory" for collocation. Section 251(c)(4) requires incumbent LECs to offer retail telecommunications services for resale at "wholesale

rates." Section 251(g)(5) establishes the duty of all LECs, both incumbent and would be LECs, to provide for "reciprocal compensation" arrangements for the transport and termination of telecommunications. Having cited these various provisions of section 251, the NPRM tentatively concludes that the statutory language confers authority on the FCC to adopt pricing rules for interconnection, unbundled network elements and collocation, and to define "wholesale rates" and "reciprocal compensation."

The DCPSC disagrees with the NPRM's tentative conclusion. The FCC may adopt general definitions of "wholesale rates" and "reciprocal compensation," but the statute does not contemplate that the FCC will establish broad pricing rules in either instance. Section 252(d)(2) and (3) contain the pricing standards for "reciprocal compensation" and "wholesale rates" that state commissions must interpret and follow. Moreover, while section 251(d) empowers the Commission to implement requirements of section 251 in regulations, no such authority is conferred with respect to section 252. Since the Commission lacks authority to implement the requirements of section 252 in a manner that would be binding on state commissions, it also cannot establish pricing requirements beyond those established in section 252(d)(1) for interconnection and network element charges. The section 252(d)(1) pricing standards could also be

reasonably interpreted to apply to collocation, since section 251(c)(6) refers to collocation as a means of interconnection.

The DCPSC notes that section 252(d)(1) and (2) establish pricing standards for state commissions to employ in determining only "just and reasonable" rates. Section 251(c)(2)(3) and (6) require, however, rates for interconnection, unbundled elements and collocation that are "just, reasonable and non-discriminatory" (emphasis added). Thus, while the FCC's section 251(c) regulations should define "just and reasonable" rates as rates that are consistent with the section 252(d) standards, the FCC could include its own definition of "non-discriminatory" because this term is not defined by section 252(d). The FCC's existing standard definition of non-discriminatory rates--i.e., the same rates for the same service should be available to all similarly situated customers--would be suitable here.

Even if the 1996 Act could be reasonably interpreted to confer authority on the FCC to establish regulations implementing the section 252 pricing standards, the facts cited in the NPRM would not support adoption of such regulations. The NPRM proposes to adopt a specific pricing or costing methodology. The record, however, shows that different reasonable methodologies are available. In addition, the NPRM does not establish the superiority of one methodology over another, or that one methodology is necessarily suitable for every large LEC and for

most states. Thus, the record cited by the NPRM would not support adoption of a single pricing or costing methodology even if the FCC had authority to impose such a methodology on all states.

Nonetheless, section 252(e)(5) clearly grants authority to the FCC to assume and carry out a state commission's section 252 (and 251) responsibilities if a state commission fails to act. The FCC could therefore adopt regulations specifying a pricing methodology it would use if required to act in place of a state commission. If the FCC were able reasonably to specify a general methodology it would use, on the basis of the record of this proceeding, such specified methodology could prove to be useful as a guideline to state commissions that will act pursuant to section 252.

The NPRM (¶¶ 147, 148) specifically proposes to preclude state commissions from establishing or permitting interconnection rates based on the efficient component pricing rule ("ECPR"). The NPRM claims that such a rule, or any similar rule, is not based on "cost" and therefore would violate section 252(d)(1). For reasons previously stated herein, the Commission has no authority under section 252 to define "cost" to include or exclude any specific methodology from consideration by a state commission.

The NPRM further seeks comment on whether use of ECPR by any state would create a barrier to entry that the FCC could preempt under section 253. While the FCC could, in theory, preclude any state from even considering use of ECPR pursuant to the FCC's authority under section 253, the Commission would have to bear the very heavy burden of demonstrating that use of the ECPR under any conceivable set of facts would constitute a barrier to entry in order to justify such a per se rule on a nationwide basis. It is more likely that Congress expected the FCC to exercise its section 253 authority against specific actions by particular states, and not to foreclose even the consideration of a proposed pricing rule in all states. While the DCPSC concedes that the FCC has authority to adopt a rule that would exclude use of an ECPR in a proceeding the FCC would conduct under section 252(e)(5), the burden the Commission would have to bear to adopt such a rule reasonably at this point would be tantamount to the burden it would have to carry to adopt a preemptive rule.

None of the foregoing should be construed as support for ECPR, or disagreement with the criticism of ECPR in the NPRM. ¶ 147. The DCPSC simply has not had the opportunity to consider fully developed arguments for and against ECPR. Neither a reasonable construction of the statute nor the NPRM, however, provides a lawful basis for precluding the DCPSC from such consideration.

The NPRM (¶¶ 149-154) seeks comment on whether the FCC "should adopt rate structures for states to apply in meeting the pricing responsibilities under section 252(d)(1)." ¶ 152. For reasons already stated herein, the FCC does not have authority under section 252 to adopt rate structure principles that are binding on state commissions. The FCC may, however, adopt rate structure principles it would use pursuant to section 252(e)(5) and such principles could usefully serve as guidelines for state action with respect to pricing under section 252.[13]

3. Resale Obligations of Incumbent LECs

In light of the variations in state policies cited in the NPRM, it would not be reasonable for the FCC to adopt any one state's resale policy as a section 251 regulation. None of the state policies cited would necessarily be reasonable in a state other than the one that has adopted it. The DCPSC, which has not yet formulated resale rules to implement the 1996 Act, will have to interpret section 251(c)(4)(B) in light of two subcategories of residential flat rate service and five subcategories of

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[13] The NPRM seeks comment on the meaning of Section 251(d)(3), which prohibits the Commission from precluding the enforcement of state regulations, orders and policies. ¶ 157. The NPRM asks what type of state policies would and would not be consistent with the requirements of Section 251 and the purposes of Part II or Title II of the 1996 Act. The NPRM also asks how these principles would affect existing state rules and policies and existing negotiated agreements between carriers. ¶ 157. The significance of Section 251(d)(3) is fully covered in the DCPSC's analysis of the scope of the Commission's regulations, supra.

residential message rate service currently offered in the District of Columbia. These variations in residential services reflect in part an effort to increase residential subscription to the telephone network in the District of Columbia, where subscribership is below the national average. Section 251(c)(4), when interpreted in light of section 252(d)(3), contemplates that the Commission will provide a basic definition, but not a pricing methodology, for wholesale rates, and that it will determine any necessary restrictions on state authority to preclude resale.

Section 251(c)(4)(B) provides that:

> a State Commission may, consistent with regulations prescribed by the Commission under this section, prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers."

¶ 176. The NPRM states that this language might be intended to prohibit competing telecommunications carriers from purchasing a service that is offered at subsidized prices to a specified category of subscribers (e.g., residential subscribers) and then reselling such service to customers that are not eligible for such subsidized service (e.g., business subscribers). Id. On the other hand, the NPRM indicates that the Commission has generally not allowed carriers to prevent other carriers from purchasing high volume, low priced offerings to resell to a broad pool of lower volume customers. Id. The NPRM further seeks

comment regarding resale policies that have been adopted in certain states.

In light of the express language of section 251(c)(4)(B), it would not be reasonable for the FCC to adopt regulations that preclude state commissions from restricting resale of subsidized residential services to business customers. The statute recognizes that state commissions can best determine how section 251(c)(4)(B) ought to be applied given the peculiarities of the market and subscriber categories that exist in each state. The variations among the state policies cited in the NPRM are largely the result of these peculiarities.

The NPRM seeks comment on the application of sections 251(c)(4) and 252(d)(3). The NPRM requests comment on both the meaning of "wholesale rates" and on whether the Commission should issue rules for states to apply in determining "avoided costs" under section 252(d)(3). ¶¶ 179-180. The NPRM states that the Commission "could determine that states are permitted, under the Act, to direct incumbent LECs to quantify their costs for any marketing, billing, collection [and similar non-wholesale activities]." ¶ 180. To avoid the administrative burden that might result under that approach, the NPRM suggests that the Commission could establish a uniform set of presumptions that states could adopt and that would apply in the absence of quantification of such costs by incumbent LECs. ¶ 181. The NPRM

further seeks comment on whether states should be "permitted or required" to allocate some common costs to avoided cost activities. Id. The NPRM also asks whether the Commission should establish rules that allocate avoided costs across services. ¶ 182. Finally, the NPRM asks for comment regarding the policies in the few states that have considered these issues. ¶ 183.

These pricing and costing issues, as well as the issue of whether some form of an imputation rule should be used in pricing certain services (¶¶ 184-187), are issues in a pending proceeding before the DCPSC, Formal Case No. 814, Phase IV. In that proceeding, certain parties have agreed on a price cap plan which would require the incumbent LEC, inter alia, to price certain "competitive" services at a rate no lower than the sum of the non-competitive components of the competitive service. The plan would require the non-competitive component services to be priced at a rate no lower than the incremental cost of providing those services. This plan is pending before the DCPSC and is subject to modification. The pricing principles set forth in the plan have been specifically designated as an issue to be explored at a further hearing, where the DCPSC will make a decision based on the evidence in that case and the requirements and objectives of the 1996 Act. In these circumstances it would not be appropriate

for the DCPSC to comment on the merits of the specific pricing methodology issues raised in the NPRM.

The Commission's regulations, however, should be confined to defining wholesale rates as follows: rates that apply to resale of any telecommunications service that an incumbent LEC offers at retail to subscribers who are not telecommunications carriers, and that are determined in accordance with the pricing standard in section 252(d)(3) of the 1996 Act. Section 252(d)(3) specifically provides that, for purposes of section 251(c)(4), "a State commission shall determine wholesale rates[.]" (emphasis added). Section 252(d)(3) further provides a pricing standard for states to follow in making that determination, and the 1996 Act confers no authority on the Commission to adopt regulations implementing section 252 state obligations. When deciding matters pursuant to section 252(d)(3), the DCPSC will consider the alternative approaches outlined in the NPRM, the policies adopted in other states, and any other reasonable suggestion, in light of facts relevant to the public interest in the District of Columbia. The Commission, however, may wish to adopt more specific regulations that it will apply in enforcing section 252(d)(3), if it is required to act pursuant to section 252(e)(5).

C. Obligations Imposed on "Local Exchange Carriers" by Section 251(b)

The NPRM seeks comment on whether and to what extent certain obligations of all "local exchange carriers" under section 251(b) should be applied to Commercial Mobile Radio Service ("CMRS") pursuant to the FCC's express discretion under section 153(a)(44) to include CMRS providers in the definition of LECs. ¶ 195. The NPRM asks what criteria should be used to make that determination. Id. The NPRM further seeks comment on whether and how this determination would be affected by a Commission determination that CMRS providers be granted flexibility to provide fixed wireless local loop service. Id. Finally, the NPRM asks whether the Commission may classify a CMRS provider as a LEC for certain purposes but not others, and whether the Commission may treat certain classes of CMRS providers as LECs but not others. Id.

If the Commission determines that CMRS providers should be permitted to provide fixed wireless local loop service, then CMRS providers will compete directly with incumbent LECs for the LEC's local service customers. The DCPSC tentatively suggests that itwould then be reasonable for the Commission to exercise its discretion under section 153(a)(44) to subject CMRS providers to the same obligations as are imposed on other competitive LECs under section 251(b).

Resale

Section 251(b)(1) imposes a duty on every LEC "not to prohibit and not to impose unreasonable or discriminatory conditions or limitations on the resale of its telecommunications services." The NPRM seeks comment on what types of restrictions would be "unreasonable" under this provision and what standards the Commission should adopt. ¶ 197.

The DCPSC tentatively recommends that the FCC regulation define an "unreasonable" condition or limitation as one that is inconsistent with the objectives of section 251, and that it define a discriminatory term as one that precludes purchase of the same service on the same terms and conditions by similarly situated carriers. The Commission should avoid any attempt to prescribe a laundry list of specific conditions or limitations that shall be considered unreasonable per se.

Reciprocal Compensation for Transport and Termination of Traffic

The NPRM seeks comment on the application of sections 251(b)(5) and 252(d)(2), which govern the duty of all LECs to establish reciprocal compensation arrangements for the transport and termination of telecommunications. Specifically, the NPRM seeks to determine what type of traffic is included in the phrase "transport and termination of telecommunications." ¶ 230. The NPRM also asks whether the Commission should "require" states to price facilities dedicated to an interconnecting carrier on a

flat-rated basis. ¶ 231. The NPRM restates its tentative conclusion, discussed in section II.B.2.d.(1) of the NPRM, that the Commission is authorized to promulgate rules to "guide" the states in applying section 252(d). ¶ 226.

As the DCPSC has shown, supra, the Commission has no authority to adopt regulations to implement the pricing standards in section 252 in a manner that would require all states to follow a particular pricing methodology. The Commission should limit its role to providing general definitions of "reciprocal compensation arrangements" and "transport and termination of telecommunications." The FCC's definition of the former term must be developed in light of section 252(d)(2) which defines "reciprocal compensation" as mutual recovery by each carrier of costs associated with transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier, with such compensation based on a reasonable approximation of the additional costs of terminating such calls, provided that off-setting reciprocal obligations, such as the waiver of mutual recovery as in bill-and-keep arrangements, are permissible. The FCC could reasonably define the terms "transport" and "termination" by analogy to its definitions of those terms for the purpose of interstate access service regulations.

The NPRM also seeks comment on the inconsistencies that could arise if subsections 252(d)(1) and 252(d)(2) are viewed independently. ¶ 232-233. The NPRM also asks whether the Commission should establish pricing rules to "guide" the states in setting charges for the transport and termination of traffic. ¶ 234. The Commission may adopt a regulation regarding how it will apply section 252(d)(1) and (2) if it is required to act under section 252(e). Any such regulation would serve as a guide to state commissions deciding pricing issues under section 252(d), including the possible inconsistencies that could arise in applying sections 252(d)(1) and 252(d)(2) as described in the NPRM. For reasons already stated herein, however, such an FCC regulation would not be binding on state commissions.

The NPRM further seeks comment on whether the Commission should "require" states to impose symmetrical rates for transport and termination of traffic. ¶ 238. Section 251(b)(4) makes no reference to "just and reasonable" rates in describing the carrier's duty to provide transport and termination service. Section 252 establishes the standard for such rates, and section 252 is the province of the states, unless a state fails to act. Therefore, the first option cited in paragraph 238 of the NPRM, allowing the states to decide whether to require rate symmetry in making determinations pursuant to section 252(d)(2), is correct here. The Commission may state how it would resolve the issue if

it were required to act pursuant to section 252(e)(5), and such a statement would serve as a guide to states.

The NPRM seeks comment on whether section 252(d)(2)(B)(i) authorizes states or the Commission to impose bill and keep arrangements. ¶ 243. The most reasonable interpretation of section 252, read in its entirety, is that it permits states (or the Commission upon a state's failure to act) in their discretion to impose bill and keep arrangements pursuant to the "mutual recovery of costs" standards in section 252(d)(2). Section 252(c)(2) states that "[i]n resolving by arbitration under subsection (b) any open issues and in imposing any conditions," a state commission shall establish rates according to section 252(d). As the NPRM indicates, section 252(d)(2)(B)(i) specifically states that bill and keep arrangements are not precluded. Read together, these provisions can only mean that a bill and keep arrangement could be imposed as a condition in an arbitration decision so long as costs, if any, are mutually recovered. The argument cited in the NPRM that bill and keep arrangements may be approved when entered into in voluntarily negotiated agreements, but not imposed by state commissions, is not persuasive. It is true that section 252(e)(2)(B) incorporates the standards set forth in section 252(d) and thus permits carriers to agree on bill and keep arrangements. That authority, however, is not exclusive of the authority of state

commissions to impose bill and keep arrangements as a "condition" in an arbitration decision, so long as the imposition of such a condition is a reasonable resolution of an open issue and meets the standards of section 252(d)(2).

Regarding whether the Commission "must or should" limit the ability of states to adopt bill and keep arrangements, the statute grants the Commission no such authority. Moreover, as the foregoing analysis shows, section 252(d) permits state commissions to impose bill and keep arrangements as a condition in an arbitration decision.

D. Provisions of Section 252

1. Arbitration Process

The NPRM seeks comment on whether in this proceeding the Commission should establish procedural regulations necessary and appropriate to carry out an arbitration if it is required to act under section 252(e)(5). ¶ 264. The NPRM further seeks comment regarding what constitutes notice of failure of a state commission to act and what procedures the Commission should establish for such notification. Id. The NPRM also requests parties to comment on the circumstances under which a state commission should be deemed to have failed to act (¶ 265), and for how long the Commission retains jurisdiction that it assumes upon such failure. ¶ 267.

In analyzing whether the FCC should adopt procedural rules now, several considerations are relevant. First, any substantive regulation that the Commission adopts to establish minimum requirements under section 251 would apply in an arbitration by the Commission upon a state's failure to act. Pursuant to section 251(d)(1), any such regulations must be adopted in this proceeding within the six month time period established by the 1996 Act. Second, procedural regulations for implementing section 252(e) are not bound by that time period. Primary consideration should therefore be given to section 251 regulations in the time period established for such regulations.

When the FCC adopts arbitration procedures that it would use in the event of a state's failure to act, such procedures should include notice requirements, which at minimum would require the filing of a notice with the Commission and immediate service on the affected state commission. The regulations should also include a procedure allowing the affected state commission to respond in writing and request a hearing regarding an alleged failure to act prior to issuance of any FCC preemption order. The procedures should also provide similar notice and hearing requirements for cases where the proposed preemption is based on the Commission's "taking notice" (as opposed to being notified) of a state commission's failure to act pursuant to section 252(e)(5).

The DCPSC recommends that the Commission not adopt regulations specifying what constitutes a state commission's failure to act. The FCC's assumption of a state's responsibility under the 1996 Act, unless voluntarily granted by the state, should be regarded as an extraordinary remedy. Any party requesting such remedy should be required to bear the burden of proving, in light of all relevant facts and circumstances, that the state has failed to carry out its responsibilities under the statute. It should also be recognized that section 252(b)(4)(C) requires state commissions to resolve matters brought for arbitration within nine months from the date that the incumbent LEC receives a request for negotiation. Prior to the expiration of such period, there can be no failure to act.

With respect to the Commission's request for comment on when jurisdiction, once preempted, should revert back to the state commission, the Commission's objective should be to restore the proper state and federal roles contemplated under the 1996 Act as soon as possible. Such reversion of jurisdiction therefore should occur upon the earliest of several events. First, the affected state commission should be permitted at any time to request reconsideration of an FCC preemption order. The Commission should grant any such request upon receiving reasonable assurance that the state commission intends to carry out its obligations. Any party opposing the request should bear

the burden of showing that the specific proceeding or matter giving rise to the initial state failure cannot be resolved without continued preemption by the Commission.

Second, if the affected state commission files no request for reconsideration, then jurisdiction should revert back to the affected state not later than the date of the Commission's resolution of the specific proceeding or matter from which the initial state failure arose. Such reversion is required because the FCC's preemptive jurisdiction is limited by section 252(e)(5) to the specific "proceeding or matter" from which the state commissions's failure to act arose.

Third, the Commission could decide at any time on its own initiative that preemption is no longer required. Under no circumstances should the Commission preempt a state commission indefinitely or "until further notice." Such preemption is clearly contrary to the requirements of section 252(e)(5) and the state and federal roles contemplated by the 1996 Act. Consistent with the requirements described above, jurisdiction should revert back to the affected state commission no later than the date on which the proceeding or matter giving rise to the initial state failure is resolved.

2. Section 252(i)

The NPRM asks whether the Commission should adopt standards for resolving disputes arising from the nondiscrimination requirements of section 252(i). ¶¶ 269-272. Here again, the Commission should adopt only regulations that it will apply when it is required to act pursuant to section 252(e)(5). Any standards that the Commission adopts might be helpful to states in applying the requirements of section 252(i).

III. CONCLUSION

The Commission should adopt section 251 rules establishing minimum requirements in accordance with the comments and recommendations set forth herein.

Respectfully submitted,

PUBLIC SERVICE COMMISSION OF
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